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Letter dated 6 September 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached sixth report of Latvia submitted pursuant to paragraph 6 of resolution 1373 (2001), as well as Latvia's response to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established
pursuant to resolution 1373 (2001)
concerning counter-terrorism

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Annex

Note verbale dated 31 August 2006 from the Permanent Mission of Latvia addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Latvia to the United Nations presents its compliments to the Counter-Terrorism Committee and has the honour to submit the responses of Latvia to the questionnaires of the Committee on measures taken to implement Security Council resolutions 1373 (2001) and 1624 (2005) (see enclosure).

Enclosure

Additional response of the Republic of Latvia to the questionnaire of the Counter-Terrorism Committee on measures taken to implement Security Council resolution 1373 (2001)

1. Implementing measures

1.1.

On 17 January 2006 the Prime Minister issued a decree "On the Staff of the Counter-terrorism Expert Advisory Council". At the first meeting of the Counter-terrorism Expert Advisory Council a draft report to the Cabinet of Ministers prepared by the Counter-terrorism Centre of the Security Police regarding establishing The Terrorism Threat Alert System in Latvia was reviewed. The Council accepted the submitted draft report and fostered its further forwarding to the Cabinet of Ministers.

According to the Council regulations, the Council meetings shall be called at least once every six months. The next meeting of the Counter-terrorism Expert Advisory Council is planned in September 2006.

1.2.

Regulations No. 316 "On procedure for completing and submitting the form for declaration of cash on state border and examining the information provider thereto" of the Cabinet of Ministers have been adopted on 25 April 2006. According to the requirements set out in Regulations No. 316 mentioned above, as of 1 July 2006 any natural person shall declare cash of a value of EUR 10 000 or more when crossing state border of the Republic of Latvia (both leaving and entering the country) at the external border of the European Union.

Forms of cash declaration that need to be filled are available in Latvian, English and Russian.

In accordance with Article 4 of the Law "On declaration of cash on state border" of 13 October 2005, the term cash means:

1) currency – banknotes and coins that are in circulation as a medium of exchange;

2) bearer-negotiable instruments:

a. including monetary instruments in bearer form such as travellers cheques, negotiable instruments (including cheques, promissory notes and money orders) that are either in bearer form, endorsed without restriction, made out of a factious payee, or otherwise in such form that title thereto passes upon delivery, and

b. incomplete instruments (including cheques, promissory notes and money orders) signed, but with the payee's name omitted.

Furthermore, any natural person when crossing a border, shall complete the declaration form in Latvian, Russian or English, providing data on the following:

1) the declarant;
2) the owner of the cash;
3) the intended recipient of the cash;
4) the amount and nature of the cash;
5) the provenance of the cash;
6) the intended use of the cash;
7) the transport route (country of original departure and destination);
8) the means of transport;
9) the place of border crossing.

The verity of the data provided shall be approved with the person's signature. As follows, a completed and signed declaration in two copies shall be submitted to the official of Customs authority or State Border Guard at the border crossing point.

Furthermore, Article 190^{15} of the Administrative Violations Code of Latvia of 7 December 1984 provides for a fine of up to LVL 200 for non-declaration or false declaration of cash by crossing the border of the Republic of Latvia. According to Article 195^{2} of the Criminal Law of the 17 June 1998 criminal liability applies with this regard if:

- non-declaration or false declaration of cash has been performed repeatedly over a year – the applicable sentence is imprisonment of up to two years or a fine of up to 100 times the minimum monthly salary;
- it is discovered that the illegal cash was not declared or the cash has been brought into or moved out of the Republic of Latvia without declaration by an

organised group – the applicable sentence is imprisonment of up to five years or a fine of up to 200 minimum monthly wage.

On the basis of the requirements set out in the laws and regulations mentioned above, the procedure of the State Revenue Service for circulation of cash declaration within the regional customs offices of the State Revenue Service, in which the procedure for allocation of cash declaration number and registration is indicated, has been produced.

1.3.

After the Criminal Procedure Law of the 21 April 2005 came into force on 1 October 2005, the Criminal Procedure Code of 6 January 1961 became invalid. It is necessary to point out that the Chapter on "International cooperation in criminal matters" existed in the Criminal Procedure Code as well. The concerned Chapter consisted of sections on extradition, transfer of proceedings, transfer of sentenced persons, recognition of foreign judgments and mutual legal assistance. With the coming into force of the Criminal Procedure Law minor changes have been made in the Chapter on the "International cooperation in criminal matters", e.g., renumbering of Articles. Taking into account the fact that the Chapter on international cooperation in criminal matters existed also prior to the Criminal Procedure Law, it would not be correct to evaluate the facilitation of the international criminal cooperation just on the basis of the Criminal Procedure Law.

At the same time the statistics show that cooperation between the Republic of Latvia and other states is increasing every year. Being the competent authority rendering mutual legal assistance at the stage of legal process in 2004 the Ministry of Justice received 117 mutual legal assistance requests from foreign countries and 179 requests in 2005 respectively. The number of mutual legal assistance requests sent by the Republic of Latvia to foreign countries is respectively 106 in 2004 and 147 in 2005.

One of the reasons for increase in number of requests could be the increase in movement of persons within the Republic of Latvia, member states of European Union and other states.

1.4.

Article 65 of the Credit Institution Law of 5 October 1995 establishes the imposition of an arrest to monetary funds and other valuables placed in a credit institution. Within a framework of a criminal procedure it is linked with the imposition of arrest to property, which can only be done by approval of the investigative judge, as established by Article 361 of the Criminal Procedure Law of 21 April 2005. In addition, Article 17-2 of the Law On Prevention of the Laundering of the Proceeds of Crime of 18 December 1997 establishes that if, on the basis of information at the disposal of the Control Service, there is cause to suspect that laundering or attempted laundering of the proceeds from crime is taking place, the Control Service may give an order to suspend the debit operation of financial resources into the account of a client or other movement of property for a time period not longer than 45 days. It must be noted that no criminal procedure has been initiated in the Republic of Latvia in connection with terrorist organizations.

1.5.

In accordance with the Law On Prevention of the Laundering of the Proceeds of Crime, the alternative funds referred to in this question do not exist in the Republic of Latvia. Money transfers take place through banks or post offices.

The Financial Police Department of the State Revenue Service has dealt with legalization of illegally obtained money where the services of credit institutions and post offices had been used, as well as through the physical (manual) transportation of cash and its legalization in immovables and movables.

1.6.

With regards to the amendments to Article 15 part 4 of the Criminal Law the Republic of Latvia informs that part 4 of Article 15 does not establish a penalty for the collection of funds or other assets for terrorist purposes. Part 4 of Article 15 of the Criminal Law provides that a wilful act (failure to act), which is directly aimed at intentional commission of a crime, is considered to be an attempted crime if the crime has not been completed for reasons independent of the will of the guilty party. Therefore, part 4 of Article 15 in conjunction with Article 88^1 on financing of terrorism provides that a preparatory act is penalized in accordance with the same Article of the Criminal Law as the offence itself, namely Article 88^1.

Statistics show that in period of 2004 – 2006 no person has been prosecuted and no person has been sentenced on the basis of Article 88 or Article 88[1] of the Criminal Law.

1.7.

The Control Service has inspected a number of suspicious cases, respectively – 30 in 2005, 4 in 2004 and 4 in 2003. In all of the cases mentioned above suspicion came out to be groundless.

1.8.

The Convention for the Suppression of Acts of Nuclear Terrorism of 13 April 2005 was signed by the Republic of Latvia on 16 September 2005 and ratified on 10 July 2006 notifying that the Republic of Latvia has established its jurisdiction over all the offences enumerated in the paragraph 2 of the Article 9 of the Convention.

The Republic of Latvia is planning to sign and ratify both, Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation of 10 March 1988 and Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms. The necessary translation and preparatory work is carried out by the responsible institutions at present in order for the Republic of Latvia to become a party to the both Protocols concerned in the nearest future.

The Republic of Latvia is planning to become a party to the Amendment of 8 July 2005 to the Convention on the Physical Protection of Nuclear Materials of 3 March 1980. The responsible institutions are carrying out the preparatory work for ratification of the Convention concerned.

Response of the Republic of Latvia to the questionnaire of the Counter-Terrorism Committee on measures taken to implement Security Council resolution 1624 (2005)

2. Implementation of resolution 1624 (2005)

2.1.

Article 20 of the Criminal Law of 17 June 1998 provides that an act or failure to act committed knowingly, by which a person (joint participant) has jointly with another person (perpetrator), participated in the commission of an intentional criminal offence, but himself or herself has not been the direct perpetrator of it, is considered to be a joint participation. Organizers, instigators, and accessories are joint participants in a criminal offence. Moreover, part 3 of Article 20 of the Criminal Law provides that a joint participant is held liable in accordance with the same Article of the Criminal Law as that in which the liability of the perpetrator is established. Thereby, incitement to commit a terrorist act or acts is punishable in accordance with Article 20 and Article 88 of the Criminal Law.

The Republic of Latvia signed the Convention on the Prevention of Terrorism of Council of Europe on 19 May 2006. The Convention sets out three main acts that should be adopted as criminal offences under domestic law, namely, public provocation to commit a terrorist offence (includes apology and glorification), recruitment for terrorism and training for terrorism (includes transmission of expertise and instructions for terrorism).

In this regard amendments of the Criminal Law are planed in order to implement these requirements in the domestic law of the Republic of Latvia.

As the Convention on the Prevention of Terrorism has not been implemented yet it is not possible to provide any information regarding difficulties observed. However, it is very likely that the most challenging problems are going to be the implementation of necessary measures for Internet monitoring and its integration with fundamental right of freedom of expression.

2.2.

As provided in the response to question 2.1., incitement to commit a terrorist act or acts is a criminal offence under the Criminal Law, therefore the relevant measures would be taken under the Criminal Procedure Law in order to deny safe haven to any person with respect to whom there is credible and relevant information giving serious reasons for considering that one has been guilty of incitement to commit a terrorist act or acts. For example, under Article 6 of the Criminal Procedure Law in every case in which it comes to a knowledge to an official who is authorised to carry out criminal proceedings that there is a reason and ground to initiate criminal proceedings, the said official has an obligation to initiate criminal proceedings and to carry through such proceedings to an equitable resolution of criminal legal relations as provided for in the Criminal Law.

According to the Asylum Law of 7 March 2002 a person shall be considered to be an asylum seeker if he or she, in accordance with procedures prescribed by Asylum Law, has submitted an application for granting of refugee or alternative status. The Refugee Affairs Department (a unit of Office of Citizenship and Migration Affairs that is under supervision of the Ministry of Interior of the Republic of Latvia) examines the application of a person and takes a decision to grant or to refuse the refugee or alternative status.

The State Border Guard identifies the asylum seeker. As follows, the Minister of Interior determines the procedures according to which an asylum seeker shall be identified and the cooperation of the institutions of the Ministry of the Interior involved in the asylum procedure. Due to this procedure Security Police provides information to the Refugee Affairs Department about the asylum seeker in term of 10 days after receiving the application, namely, if the person concerned is participating in terrorist, totalitarian, anti-state or other organization that uses violent methods or if this person causes threat to security or public order of the Republic of Latvia.

The asylum seeker can be detained for a term not longer than 10 days if it is necessary for the interests of State security and public order.

Provisions of the Asylum Law on the granting of refugee status are not applied if there is a reason to believe that the asylum seeker has committed a crime against peace, a war crime or crime against humanity, also a crime of genocide within the meaning defined in international legal acts, which have been adopted to carry out measures against crimes of such type or if before arrival to the Republic of Latvia he

or she has committed an especially serious non-political crime or is guilty of committing acts that are contrary to the principles and purposes set by the United Nations. Furthermore, the status of asylum seeker shall not be applied to a person who endangers State security and public order due to the information provided by the competent institutions.

Draft regulations of the Cabinet of Ministers are being prepared which would regulate the collateral examination of persons to whom the status of asylum seeker is being applied before issuing residence permits or visas to the persons concerned.

2.3.

Two agreements have been signed on 7 June 2006 with a view to strengthening the security of the international borders of the Republic of Latvia – the "Agreement between the government of the Republic of Lithuania and the government of the Republic of Latvia on cooperation in combating organized crime and other offences and on joint action in border regions" and the "Agreement between the government of the Republic of Estonia and the government of the Republic of Latvia on cooperation in combating organized crime and other offences and on joint action in border regions". The cooperation entails offences involving terrorism and offences involving illegal crossing of state borders.

The competent authorities for implementation of the said agreements in the Republic of Latvia is the Ministry of the Interior, the State Border Guard, the State Police, the Security Police, the Financial Police Board of the State Revenue Service, and the Customs Criminal Board of the State Revenue Service.

By signing the agreements mentioned above The Republic of Latvia, The Republic of Lithuania and the Republic of Estonia have decided to promote cooperation between competent authorities in order to combat organized crime and other crimes together.

After joining the Shengen Agreement all competent authorities of states parties will have the right to carry on the observation in the territory of the other state concerned after receiving permission of central institution of this state. The Agreements foresee that institutions have to arrange joint patrols and joint contact points, which will improve obtaining of necessary information from neighboring countries. The Agreements also foresee a cooperation in exchange of information.

In the framework of the agreements it is prescribed that all three Baltic states will cooperate in the field of illegal crossing of state borders and illicit trafficking in persons across state borders and other offences involving illegal crossing of state borders.

2.4.

The Republic of Latvia has been selected as one of the participants in the international Information Campaign "For Diversity - Against Discrimination" which is co-financed by the European Commission. Secretariat of the Minister for Social Integration Affairs is the manager of the project in the Republic of Latvia and coordinates all the activities concerning the project "Latvia - Equal in Diversity (LEDI)". The main aim of the project is to combat discrimination in Latvian society and to raise awareness of specific target groups on new opportunities for cultural diversity provided by EU policy and EU Directives. LEDI is aimed at creating sustainable cooperation of national authorities and NGOs of vulnerable groups and youth in the field of anti-discrimination field. The main methods involve education, motivation and creating networks for further cooperation in the field of anti-discrimination policy. Participants of the LEDI are national authorities, NGOs of groups exposed to discrimination (e.g. Roma people, ethnic, religious and sexual minorities), universities and schools as well as media. In 2006 the Secretariat of the Minister for Social Integration Affairs is working on creation of a project LEDII, which would continue the work with the target groups of the project LEDI, as well as initiating other activities in order to prevent the different kinds of discrimination, including discrimination based on religion and culture.

2.5.

Firstly, the Security Police within its competence is regularly monitoring extremist organizations in order to prevent incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorist and their supporters.

Furthermore, a brochure "Tolerance is our aim!" has been published in 2004 and is dedicated to interfaith dialogue and tolerance. The brochure provides basic information on interfaith dialogue, religious tolerance and offers excerpts from international legislation on religious tolerance and the best practice in the Republic of

Latvia. The brochure is available on Internet web site of the Secretariat for Social Integration Affairs (www.integracija.gov.lv) in Latvian. In addition a series of smaller postcards have been printed and distributed among schools with motives and logos of religious tolerance and diversity. Some famous Latvian artists have been involved in this campaign.

On 16 of November 2005 a new web-library "Library of religions" was presented to a wider audience. This project was a joint project with Latvian Bible Society and its primary audience consists of teachers and pupils, students and journalists who need a quick access to basic information about religious diversity in Latvia and abroad. The information about the project is available to public through websites www.bibelesbiedriba.lv and www.integracija.gov.lv.

Furthermore, a subproject "Open Synagogue" (within the framework of the International Tolerance Day) was organized with assistance and support of Latvian Jewish Community.

On 25 August 2005 an intensive dialogue took place among representatives of various religions, ethnic and religious minorities during the seminar "Religious identity – a factor for religious tolerance?" The seminar was organized together with representatives of major Christian and non–Christian religions and confessions, including Muslims and Buddhists living in the Republic of Latvia.

One of the subprojects of "Latvia – equal in diversity" was dedicated to the problem of anti–Semitism and Islamo-phobia in the Republic of Latvia. The project consisted of a seminar and a printed material containing a report of the conference held on the 5 April 2006. The information regarding the topics concerned is available on the web site of the Secretariat for Social Integration Affairs www.integracija.gov.lv in Latvian and in part in English as well.

The Secretariat had supported various initiatives of NGOs in fighting hate speech in Latvian cyberspace. The largest one is a new on–line library www.tolerance.lv. The library consists of various sub-themes related to different issues of tolerance, explanations of the most common examples of intolerance, works of recognizable and acknowledged authors that have worked for popularizing ideas of tolerance. This project is supported by the European Community Action Programme to combat discrimination (2001-2006). This programme was established to support the effective implementation of new EU anti-discrimination legislation.

Another educational project conducted by a group of cyber media in Latvia is dedicated to fighting hate speech in Internet and is called "Internet – free of hate". The aim of the project is to provide the relevant information on the classic authors that have promoted tolerance, the anti-discrimination documents of the European Community as well as to promote a discussion on the topical issues.

The state action plan "National Program for the Promotion of tolerance" must be mentioned as an example of state policy for promotion of tolerance. The program is planned for the period of 5 years (2005 – 2009) and is financed by the state budget. One of the target groups of the Program is media. Under this program another brochure in the series "Tolerance is our aim!" has already been published and disseminated among various media.

2.6.

The Republic of Latvia has actively participated in adoption of all thirteen international legal instruments on which the global fight against terrorism is based by ratifying those. By doing so the national legislation of the Republic of Latvia has been amended where necessary in order to comply with all the requirements set out in these international legal instruments.

It must be noted that as established by Chapter 8 "Fundamental Human Rights" of the Satversme (the Constitution of the Republic of Latvia) the State recognises and protects fundamental human rights in accordance with the Constitution, laws and international agreements binding upon the Republic of Latvia. The Constitutional Court of the Republic of Latvia, as provided for by law reviews cases concerning the compliance of laws with the Constitution. The Constitutional Court has the right to declare laws or other enactments or parts thereof invalid if they do not comply with the Constitution.

The process of judicial review ensures the possibility for an individual to defend ones rights both within the national courts' system as well as in international tribunals.

What refers to the implementation of paragraph 3 of the Security Council Resolution 1624 (2005), the Secretariat of the Minister for Social Integration Affairs ensures that all its activities comply with the obligations of the international law. Consulting experts of international law in the Republic of Latvia work on these issues. Secretariat of the Minister for Social Integration Affairs has created a successful

cooperation with the Latvian National Human Rights Office in order to ensure the necessary debates on drawing effective ways to combat discrimination according to the real situation in Latvia.